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New Overtime Rules Released Today

Today, the Department of Labor (DOL) released its Final Rule regarding overtime pay for white collar workers. Vice President Joe Biden made the formal announcement in Columbus, Ohio.

Bringing significant changes for employers, the Final Rule extends overtime pay requirements to an estimated 4.2 million additional workers who are not currently eligible for overtime under federal law. The new rules take effect on **December 1, 2016**, and specifically will:

- **Raise the salary threshold from \$23,660 to \$47,476 a year, or from \$455 to \$913 a week.** This increase doubles the current salary threshold. This number was chosen as it represents the 40th percentile of full-time salaried workers in the lowest income census region.
- **Update the salary threshold every three years.** These updates will maintain the salary threshold at the 40th percentile of full-time salaried workers in the lowest income region of the county. Based on the DOL's projections of wage growth, the threshold is expected to rise to more than \$51,000 with the first update on January 1, 2020.
- **Raise the highly compensated employee threshold from \$100,000 to \$134,004 in total compensation annually.** Once the employee receives this amount of total annual compensation, however, only a minimal showing is required to demonstrate that an employee is not eligible for overtime. The DOL designed this threshold to ease the burden on employers in identifying overtime eligible employees, since it is more likely that workers earning this high salary level perform the types of job duties that would exempt them from overtime requirements.
- **Not change the duties test.** Workers earning more than the salary threshold are still subject to the duties test to determine eligibility for overtime. However, there will be no changes to the existing duties test.

- **Count bonuses and commissions toward up to 10 percent of the new salary level.** For the first time, employers will be able to count bonuses and commissions toward as much as 10 percent of the salary threshold.

The Final Rule has substantial implications for employers, both from a dollar perspective and a liability perspective, as the DOL will closely monitor employers' compliance with the rules. The effective date of the new rule allows more time than anticipated for employers to prepare to comply. Employers should be conducting audits of their workforces in order to implement the required changes.

For more information on the DOL's Final Rule, conducting an audit, or other questions related to employment law, please contact [Amy Wilson](#), [Jennifer Rulon](#), [Kyle Johnson](#), [Neal Shah](#), [Jeffrey Lindemann](#) or any member of Frost Brown Todd's [Labor and Employment Practice Group](#).

Please also stay tuned for upcoming informational sessions presented by Frost Brown Todd attorneys regarding compliance with the new overtime rules.

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